IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MARION

ADAM EUGENE KOBS, an individual, and N.K., a minor, by and through his father and natural guardian, Plaintiff, v. SILVERTON SHELTERING SERVICES d.b.a. SHELTERING SILVERTON, an Oregon nonprofit corporation; SARAH WHITE, an individual; JOSEPH SCHAMUS, an individual; JORDAN SIMS, an individual; and TRAVIS DEAN GLIDDEN, an individual, Defendants.	Case No. 25CV57849 **DEFENDANT SHELTERING SILVERTON'S AMENDED MOTION TO DISSOLVE OR MODIFY PRESERVATION ORDER**

MOTION

Pursuant to ORCP 71 A and ORCP 79 B(4), defendant Sheltering Silverton moves the Court to dissolve the Preservation Order. In the alternative, defendant respectfully requests the Court modify its Preservation Order. Plaintiff did not serve counsel for Sheltering Silverton with the Preservation Order or confer with counsel about it before it was signed by the Court. Plaintiff has not met the requirements of ORCP 79 and is not entitled to a temporary restraining order ("TRO") or preliminary injunction. Additionally, the Order is unduly burdensome and as such defendant Sheltering Silverton should not be required to abide by the schedule set out in the Order pursuant to ORCP 36 C. This Motion is supported by the Declaration of Guy Keating and Amended Declaration of Sarah White filed herewith.

SCHULTE, ANDERSON, DOWNES, ARONSON & BITTNER P.C.
811 SOUTHWEST NAITO PARKWAY, SUITE 500
PORTLAND, OREGON 97204-3379
TELEPHONE (503) 223-4131
FAX (503) 223-1346

ARGUMENT

1. *Plaintiff has not provided notice of the temporary restraining order required by ORCP 79* B(1)(b).

Pursuant to ORCP 79 B(1)(b), the applicant must submit an affidavit or declaration to the Court setting forth the efforts, if any, which have been made to notify the defendant or defendant's attorney of the application, and the reasons supporting the claim that notice should not be required. ORCP 79 B(1)(b). Counsel for Sheltering Silverton has not received any notice of the Order from plaintiff, nor has plaintiff attempted to confer on the substance of the Order. *Decl. of Guy Keating.* Sarah White received service of the Order on November 25, 2025. *Decl. of Sarah White.* Plaintiff has not attempted to confer with Sarah White on the substance of the Order. *Decl. of Sarah White.* Because plaintiff did not make reasonable efforts to notify defendant's counsel of the application for the TRO, the Court should dissolve the Order.

2. *Plaintiff has not satisfied the requirements of for the Court to grant him a temporary restraining order or preliminary injunction.*

Plaintiff has not shown good cause that there is a risk that relevant ESI in defendant's possession is at risk of being deleted. ORCP 79 provides for temporary restraining orders and preliminary injunctions, and this order is neither. Only a TRO may be granted ex parte without oral or written notice to the adverse party. ORCP 79 B(1). No Preliminary injunction may be issued without notice to the adverse party at least five days before the time specified for the hearing. ORCP 79 C(1).

The Court may only grant a TRO if it appears from specific facts shown by an affidavit, a declaration or a verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or the adverse party's attorney can be heard in opposition. Here, plaintiff has not shown that irreparable injury or loss will result from the non-retention of ESI. Indeed, the ESI which plaintiff is not in the possession custody or control of

SCHULTE, ANDERSON, DOWNES, ARONSON & BITTNER P.C.
811 SOUTHWEST NAITO PARKWAY, SUITE 500
PORTLAND, OREGON 97204-3379
TELEPHONE (503) 223-4131
FAX (503) 223-1346

Sheltering Silverton, as Sheltering Silverton's video system does not retain video for more than a few days. *Decl. of Sarah White.*

3. *Defendant Sheltering Silverton is unduly burdened by the Order, and the Order is inapposite in light of defendant's motion to dismiss filed herewith.*

Defendant requests, in the alternative, that the Court modify the order. Defendant filed its Motion to Dismiss on December 9, 2025. The schedule set forth in the Preservation Order is inapposite because the Court should first hear whether or not plaintiff's claims should be dismissed in their entirety. Pursuant to ORCP 36 C(1), defendant should not be required to undergo burdensome discovery for a case that may not survive a motion to dismiss.

Specifically, defendant requests that Sections 2 and 4 be struck from the Order. Nowhere in ORCP 79 does a TRO entitle the moving party to expedited discovery. 14 days is an insufficient time to require defendant to compile the necessary information regarding all of the requested CCTV and recording information. The Order's requirement that the parties meet within 21 days and submit ESI protocols or competing proposals is also unduly burdensome as it requires that an unknown amount of data be preserved by defendant. Defendant requests that if the Court determines not to dissolve the order, sections 2 and 4 be struck.

///

///

///

///

///

///

///

///

///

SCHULTE, ANDERSON, DOWNES, ARONSON & BITTNER P.C.
811 SOUTHWEST NAITO PARKWAY, SUITE 500
PORTLAND, OREGON 97204-3379
TELEPHONE (503) 223-4131
FAX (503) 223-1346

CONCLUSION

For the foregoing reasons, defendant requests that the Preservation Order be dissolved. In the alternative, sections 2 and 4 of the Order should be struck.

Dated this 23rd day of December, 2025.

SCHULTE, ANDERSON, DOWNES, ARONSON & BITTNER P.C.

By: */s/ Guy Keating*

Guy E. Keating, OSB No. 074367
811 SW Naito Parkway, Suite 500
Portland, OR 97204
(503) 223-4131 / (503) 223-1346 fax
gkeating@schulte-law.com
Attorney for Defendants

By: */s/ Tyler Honn*

Tyler C. Honn, OSB No. 252499
811 SW Naito Parkway, Suite 500
Portland, OR 97204
(503) 223-4131 / (503) 223-1346 fax
thonn@schulte-law.com
Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing **DEFENDANT SHELTERING SILVERTON'S AMENDED MOTION TO DISSOLVE OR MODIFY PRESERVATION ORDER** on the date indicated below and to the party/attorney(s) indicated below:

☐ Courtesy mail with postage prepaid, deposited in the US mail at Portland, Oregon; I further certify that said copy was placed in a sealed envelope delivered to attorneys at the addresses listed below.

☒ OJD Efiling System (File & Serve) (i.e., "Electronic service" means the electronic transmission of a notice of filing by the electronic filing system to the electronic mail (email) address of a party who has consented to electronic service under UTCR 21.100(1)).

☒ Via Email.

Adam Kobs
Adamkamazon1@gmail.com
Plaintiff Pro Se

DATED: December 23, 2025

/s/ Guy Keating

Guy E. Keating, OSB No. 074367
gkeating@schulte-law.com
Of Attorneys for Defendants

SCHULTE, ANDERSON, DOWNES, ARONSON & BITTNER P.C.
811 SOUTHWEST NAITO PARKWAY, SUITE 500
PORTLAND, OREGON 97204-3379
TELEPHONE (503) 223-4131
FAX (503) 223-1346